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SUBJECT: EGYPT ISSUES IPR COPYRIGHT REGULATIONS

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1. (SBU) Summary. On March 29, 2005, the Prime Minister issued decree 497/2005 which promulgated the final chapter of executive regulations of the Intellectual Property Rights (IPR) Law 82 of 2002. Analysis of this chapter, which cover copyrights and neighboring rights, indicates potential deficiencies in the regulations and some inconsistencies with Egypt's international IPR commitments, including the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Some of these problems were anticipated by IPR experts, who had offered, to no avail, to help the GOE with the drafting of the regulations. Post will report on any additional shortcomings in the regulations that come to light, and will follow up with IPR experts for their reaction to the new regulations. End summary.

2. (U) Chapter 3 on copyrights and neighboring rights was the last chapter of the four-chapter implementing regulations of the 2002 IPR law to be issued. The absence of executive regulations on copyrights was singled out in the 2004 Special 301 report as one of the reasons for weak copyright enforcement in Egypt -- a deficiency cited as justification for elevating Egypt to the Priority Watch List that year.

3. (SBU) While the implementation of the copyright regulations is welcome, a review of the chapter by the IPR consultants at the USAID-funded Intellectual Property Rights Assistance (IPRA) Project indicates that the regulations fail to address the following important issues:

False licensing: The regulations do not address false licensing -- the granting of a license by someone with no authority to do so. GOE enforcement authorities cite their inability to verify the authenticity of licenses as a major reason for failing to provide effective copyright enforcement.

Border protection: There is confusion within the GOE over which agencies are responsible for preventing pirated material from entering the country, a TRIPS obligation. The issue is not addressed by either the 2002 IPR law or the Chapter 3 regulations. This deficiency is of great concern, as most pirated goods in Egypt are imported, not produced locally.

Non-voluntary licenses: A concern with IPR Law 82 of 2002 was that it created a provision for non-voluntary licenses that went beyond what was permitted under the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) and TRIPS. The copyright regulations failed to remedy this problem and, in fact, appear to have created an even more expansive set of non-voluntary licenses, especially for educational purposes, without the protections and limitations required under the Berne Convention.

Computer software: Chapter 3 regulations regarding the adaptation of computer software are unclear and could allow persons other than the software designer to adapt the software without permission, in violation of the Berne Convention and TRIPS.

Licensing of works in the public domain: The regulations require payment for licenses for the commercial or professional use of works, sound recordings, performance or broadcast programs that are already in the public domain. Requiring payment for such works violates the principle of public domain and deprives the public of the intended benefits.

4. (SBU) Comment: Analysis of the copyright regulations by IPRA experts indicates that a number of deficiencies that will have to be corrected if Egypt is to meet its international IPR obligations. These problems are not wholly unexpected. The IPRA project had identified many of

these concerns after the IPR law went into effect and had offered to assist the Ministry of Culture with the drafting of the executive regulations. Unfortunately, the offer was refused. Post will report on any additional shortcomings in the regulations that come to light, and will follow up with representatives in the field of intellectual property for their reaction to the new regulations. End comment.

GRAY